



UNITED STATES PATENT AND TRADEMARK OFFICE

11A

UNITED STATES DEPARTMENT OF COMMERCE
United States Patent and Trademark Office
Address: COMMISSIONER FOR PATENTS
P.O. Box 1450
Alexandria, Virginia 22313-1450
www.uspto.gov

APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
10/660,289	09/11/2003	Brent Russell Phillips	AUS920030563US1(4013)	5354

45557 7590 01/31/2007

IBM CORPORATION (JSS)
C/O SCHUBERT OSTERRIEDER & NICKELSON PLLC
6013 CANNON MOUNTAIN DRIVE, S14
AUSTIN, TX 78749

EXAMINER

MIRZADEGAN, SAEED S

ART UNIT	PAPER NUMBER
----------	--------------

2109

SHORTENED STATUTORY PERIOD OF RESPONSE	MAIL DATE	DELIVERY MODE
3 MONTHS	01/31/2007	PAPER

Please find below and/or attached an Office communication concerning this application or proceeding.

If NO period for reply is specified above, the maximum statutory period will apply and will expire 6 MONTHS from the mailing date of this communication.

Office Action Summary

Application No.

10/660,289

Applicant(s)

PHILLIPS, BRENT RUSSELL

Examiner

Saeed S. Mirzadegan

Art Unit

2109

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --
Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) OR THIRTY (30) DAYS, WHICHEVER IS LONGER, FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

Status

- 1) ☒ Responsive to communication(s) filed on 11 September 2003.
- 2a) ☐ This action is **FINAL**. 2b) ☒ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

Disposition of Claims

- 4) ☒ Claim(s) 1-20 is/are pending in the application.
- 4a) Of the above claim(s) _____ is/are withdrawn from consideration.
- 5) ☐ Claim(s) _____ is/are allowed.
- 6) ☒ Claim(s) 1-20 is/are rejected.
- 7) ☐ Claim(s) _____ is/are objected to.
- 8) ☐ Claim(s) _____ are subject to restriction and/or election requirement.

Application Papers

- 9) ☒ The specification is objected to by the Examiner.
- 10) ☒ The drawing(s) filed on 11 September 2003 is/are: a) ☐ accepted or b) ☒ objected to by the Examiner.
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).
Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

Priority under 35 U.S.C. § 119

- 12) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☐ All b) ☐ Some * c) ☐ None of:
1. ☐ Certified copies of the priority documents have been received.
 2. ☐ Certified copies of the priority documents have been received in Application No. _____.
 3. ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

* See the attached detailed Office action for a list of the certified copies not received.

Attachment(s)

- | | |
|---|---|
| 1) <input checked="" type="checkbox"/> Notice of References Cited (PTO-892) | 4) <input type="checkbox"/> Interview Summary (PTO-413)
Paper No(s)/Mail Date. _____ |
| 2) <input type="checkbox"/> Notice of Draftsperson's Patent Drawing Review (PTO-948) | 5) <input type="checkbox"/> Notice of Informal Patent Application |
| 3) <input checked="" type="checkbox"/> Information Disclosure Statement(s) (PTO/SB/08)
Paper No(s)/Mail Date <u>9/11/03, 4/12/04</u> . | 6) <input type="checkbox"/> Other: _____ |

DETAILED ACTION

Information Disclosure Statement

1. The information disclosure statement filed 04/12/2004 fails to comply with the provisions of 37 CFR 1.97, 1.98 and MPEP § 609 because Items 1 and 2 cited on page 2 of the IDS are not cited properly. Each publication listed in an information disclosure statement must be identified by publisher, author (if any), title, relevant pages of the publication, date, and place of publication. It has been placed in the application file, but the information referred to therein has not been considered as to the merits. Applicant is advised that the date of any re-submission of any item of information contained in this information disclosure statement or the submission of any missing element(s) will be the date of submission for purposes of determining compliance with the requirements based on the time of filing the statement, including all certification requirements for statements under 37 CFR 1.97(e). See MPEP § 609.05(a).

The rest of the items in the information disclosure statement filed 04/12/2004, is in compliance with the provisions of 37 CFR 1.97. Accordingly, the information disclosure statement is being considered by the examiner.

2. The information disclosure statement (IDS) submitted on 09/11/2003, is in compliance with the provisions of 37 CFR 1.97. Accordingly, the information disclosure statement is being considered by the examiner.

Drawings

3. The drawings are objected to under 37 CFR 1.83(a). The drawings must show every feature of the invention specified in the claims. Therefore, the "Queue Manager" of claim 1, 9 and 17 must be shown or the feature(s) canceled from the claim(s). No new matter should be entered.

4. Corrected drawing sheets in compliance with 37 CFR 1.121(d) are required in reply to the Office action to avoid abandonment of the application. Any amended replacement drawing sheet should include all of the figures appearing on the immediate prior version of the sheet, even if only one figure is being amended. The figure or figure number of an amended drawing should not be labeled as "amended." If a drawing figure is to be canceled, the appropriate figure must be removed from the replacement sheet, and where necessary, the remaining figures must be renumbered and appropriate changes made to the brief description of the several views of the drawings for consistency. Additional replacement sheets may be necessary to show the renumbering of the remaining figures. Each drawing sheet submitted after the filing date of an application must be labeled in the top margin as either "Replacement Sheet" or "New Sheet" pursuant to 37 CFR 1.121(d). If the changes are not accepted by the examiner, the applicant will be notified and informed of any required corrective action in the next Office action. The objection to the drawings will not be held in abeyance.

Specification

5. The disclosure is objected to because of the following informalities: [0015] Line 20, Page 6, refers to "Server 110", where it is identified as "Server 130" on Fig. 1.

Appropriate correction is required.

6. The disclosure is objected to because of the following informalities: [0015] Line 20, Page 6, refers to "queue manager 139", where this item is omitted on Fig. 1.

Appropriate correction is required.

7. The disclosure is objected to because of the following informalities: [0017] Line 2, Page 7, refers to "local queue manager 139", where this item is omitted on Fig. 1.

Appropriate correction is required.

8. The disclosure is objected to because of the following informalities: [0020] Line 1 & 2, Page 8, refers to "local queue manager 139", where this item is omitted on Fig. 1.

Appropriate correction is required.

9. The disclosure is objected to because of the following informalities: [0021] Line 7, Page 8, refers to "local queue manager 139", where this item is omitted on Fig. 1.

Appropriate correction is required.

Art Unit: 2109

10. The disclosure is objected to because of the following informalities: [0021] Line 11, Page 8, refers to "working queue 137", where it is identified as "working queue 136" on Fig. 1.

Appropriate correction is required.

11. The disclosure is objected to because of the following informalities: The use of the trademark "OptiConnect" has been noted in this application, [0025] Line 19, Page 9, It should be capitalized wherever it appears and be accompanied by the generic terminology.

Although the use of trademarks is permissible in patent applications, the proprietary nature of the marks should be respected and every effort made to prevent their use in any manner which might adversely affect their validity as trademarks.

Appropriate correction is required.

12. The disclosure is objected to because of the following informalities: [0032] Line 26-27, Page 11, refers to "dispatcher 210", where it is identified as "dispatcher 230" on Fig. 2.

Appropriate correction is required.

Art Unit: 2109

13. The disclosure is objected to because of the following informalities: [0038] Line 16, Page 13, refers to "data 272", where it is identified as "database 272" on Fig. 2.

Appropriate correction is required.

14. The disclosure is objected to because of the following informalities: [0046] Line 15, Page 15, refers to "queue 222", where it is identified as "queue 245" on Fig. 2.

Appropriate correction is required.

Claim Rejections - 35 USC § 112

The following is a quotation of the second paragraph of 35 U.S.C. 112:

The specification shall conclude with one or more claims particularly pointing out and distinctly claiming the subject matter which the applicant regards as his invention.

15. **Claims 7 & 9 & 15 & 16** are rejected under 35 U.S.C. 112, second paragraph, as being indefinite for failing to particularly point out and distinctly claim the subject matter which applicant regards as the invention. The term "thread" needs to be defined and clarified in the specifications. Is "thread" a software, hardware or DB thread?

Claim Rejections - 35 USC § 101

35 U.S.C. 101 reads as follows:

Whoever invents or discovers any new and useful process, machine, manufacture, or composition of matter, or any new and useful improvement thereof, may obtain a patent therefor, subject to the conditions and requirements of this title.

16. **Claims 17-20** are rejected under 35 U.S.C. 101 because The Claimed Invention is directed to a judicial exception to 35 U.S.C. 101 (Natural Phenomenon) and is not directed to a practical application of such judicial exception because the invention as claimed does not produce a tangible result as set forth in MPEP 2106.

17. [0056] Line 16, states "one embodiment of the invention is implemented as a program product for use with a computer system such as, for example, the system 100 shown in FIG. 1. The program(s) of the program product defines functions of the embodiments (including the methods described herein) and can be contained on a variety of signal-bearing media. Illustrative signal-bearing media include, but are not limited to: (i) information permanently stored on non-writable storage media (e.g., read-only memory devices within a computer such as CD-ROM disks readable by a CD-ROM drive); (ii) alterable information stored on writable storage media (e.g., floppy disks within a diskette drive or hard-disk drive); and (iii) information conveyed to a computer by a communications medium, such as through a computer or telephone network, including wireless communications. The latter embodiment specifically includes information downloaded from the Internet and other networks. Such signal-bearing

Art Unit: 2109

media, when carrying computer-readable instructions that direct the functions of the present invention, represent embodiments of the present invention”.

As it is written, Radio waves are also being claimed as a signal bearing media.

18. In order for software claims to be statutory, they must be claimed in combination with an appropriate medium and/or hardware to establish statutory category of invention and enable any functionality to be realized as set forth in MPEP 2106.01.

Claim Rejections - 35 USC § 103

The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

The factual inquiries set forth in *Graham v. John Deere Co.*, 383 U.S. 1, 148 USPQ 459 (1966), that are applied for establishing a background for determining obviousness under 35 U.S.C. 103(a) are summarized as follows:

1. Determining the scope and contents of the prior art.
2. Ascertaining the differences between the prior art and the claims at issue.
3. Resolving the level of ordinary skill in the pertinent art.
4. Considering objective evidence present in the application indicating obviousness or nonobviousness.

Art Unit: 2109

19. **Claims 1-6, 9-15, 17-20** are rejected under 35 U.S.C. 103(a) as being unpatentable over McGann et al. (US patent No. 6920476) which will hereafter be referred to as McGann et al., in view of Lambert et al. (US PG PUB No. 20030033349) which will hereafter be referred to as Lambert et al.

20. Regarding **Claims 1 & 9 & 17**, McGann et al., teaches copying the message (Fig. 2, Message 26) to a working queue (Fig. 2, Message collector 28) the working queue being persisted by a queue manager (Fig. 2, Local queue manager 30) to persist the message before the message is removed from the inbound queue (Col.3, Line 2, preferably, it is persisted to a local file system 32 (Fig. 2), where it is stored until the message is delivered); and processing the message to generate a reply (Col.3, Line 31, Message Writer 36 (Fig.2) is a module that receives messages and routes them to a specific associated process) prior to removing the message from the working queue. (Col.3, line 3, Until removed by the receiver, the message remains on the local file system so that it can be retrieved and resent in case of a hardware or software failure somewhere along the line) .

21. McGann et al., does not teach browsing an inbound queue to identify the message.

22. It is well known in the art that in order for a message to be identified, it needs to be browsed first; further more Lambert et al., which is in the same field of endeavor,

Art Unit: 2109

also teaches (Page 8, [0094] Line 1, that queue managers provide applications with Get, Put, Browse, Wait, Listen and Delete operations).

23. McGann et al., discloses the claimed invention except for browsing an inbound queue. It would have been obvious to one having ordinary skill in the art at the time the invention was made to browse the queue to identify the message as taught by Lambert et al., since what is lacking in McGann et al., is well known in the art. One of the functions of the queue manager is to browse the queue. In order to process a message, it first has to be browsed.

24. One of ordinary skills in art at the time of the applicant's invention would benefit from combining McGann et al. and Lambert et al. to achieve processing of the message.

25. Regarding **Claims 2 & 10 & 18**, note that McGann et al., also teaches removing the message from the working queue after storing the reply in an outbound queue. (Col.3, Line 43, Once the message writer 36 has delivered the message, it removes the message form the local queue, where it had been placed by the local queue manager 30).

26. Regarding **Claims 3 & 11 & 15**, note that McGann et al., also teaches restoring the message in the working queue after a system failure. (Col.3, Line 48, Thus, in the

Art Unit: 2109

event of a failure, the message is saved in a reliable location. Once the failure has been corrected, the message can be resent and receipt insured by plug in 38, 40, the intended recipient).

27. Regarding **Claims 4 & 12**, note that McGann et al., also teaches determining that the message is persisted prior to removing the message from the inbound queue. (Col.3, Line 45, Until message writer 36 has delivered the message, it remains on the persistent storage device, from where it can be accessed later if need be).

28. Regarding **Claims 5 & 13**, note that Lambert et al., teaches that browsing comprises searching the working queue for the message, wherein the message is waiting to be processed. (Page 8, [0094] Line 1, that queue managers provide applications with Get, Put, Browse, Wait, Listen and Delete operations).

29. Regarding **Claims 6 & 14**, note that Lambert et al., also teaches that browsing comprises locking the message until the message is copied to the working queue. (Page 8, [0095] Line 5, Browsing under lock is also supported--which has the additional feature of locking the matching messages on the queue).

30. **Claim 7** is rejected under 35 U.S.C. 103(a) as being unpatentable over McGann et al. (US patent No. 6920476), in view of Lambert et al. (US PG PUB No.

Art Unit: 2109

20030033349) as applied to claim 1 above and in further view of Nakada et al. (US PG PUB No. 20010013051) which will hereafter be referred to as Nakada et al.

31. Regarding **Claim 7**, note that Nakada et al., teaches processing comprises assigning the message to a thread, the thread being available to process the message, (Page 2, [0030] Line 6, generating a new conversation thread when it is determined that the corresponding conversation thread does not exist in the message processor).

32. McGann et al., & Lambert et al., disclose the claimed invention except for processing comprises assigning the message to a thread, the thread being available to process the message.

33. Nakada et al., teaches that a thread is generated when it is needed and does not exit.

34. It is well known in the art that a process cannot occur unless a thread is assigned to it; hence it would have been obvious to one having ordinary skill in the art at the time the invention was made to assign the message to a thread, the thread being available as taught by Nakada et al.

Art Unit: 2109

35. One of ordinary skills in art at the time of the applicant's invention would benefit from combining McGann et al. and Lambert et al. with Nakada. Such a modification would allow the process to occur & execute as intended by the message sender.

36. **Claims 8 & 16** are rejected under 35 U.S.C. 103(a) as being unpatentable over McGann et al. (US patent No. 6920476), in view of Lambert et al. (US patent No. 20030033349) as applied to claim 1 above and in further view of Mikalsen et al. (US patent No. 6934948) which will hereafter be referred to as Mikalsen et al.

37. Regarding **Claim 8 & 16**, note that Mikalsen et al., teaches that processing comprises transmitting a second message to request data (Col.6, Line 23-24, the message representing the request), indicated by a content of the message and generating the reply based upon data received in response to the second message (Col.6, Line 24-30, the two messages are correlated and as a consequence to the request message or some processing, the reply is generated).

38. McGann et al., & Lambert et al., disclose the claimed invention except for processing comprises transmitting a second message to request data indicated by a content of the message and generating the reply based upon data received in response to the second message, Mikalsen et al., teaches that it is known to generate a reply based on the content of the message as set forth at Col 6, Line 19-30.

Art Unit: 2109

39. It would have been obvious to one having ordinary skill in the art at the time the invention was made to generate a reply message based on the content of the message as taught by Mikalsen et al. One of ordinary skills in art at the time of the applicant's invention would benefit from combining McGann et al. and Lambert et al. with Mikalsen et al. by achieving the processing of the message as intended by the sender.

40. Regarding **Claims 20**, note that Lambert et al., also teaches that browsing comprises selecting a set of messages, the message being part of the set (Page 8, [0095] Line 3, Queues may also be browsed for messages under the control of a filter) and also (Page 8, [0095] Line 13, Alternatively applications can listen for message events, again optionally with a filter).

Conclusion

The prior art made of record and not relied upon is considered pertinent to applicant's disclosure. Schoenthal (US 6910154) teaches Persistent and reliable delivery of messages.

Any inquiry concerning this communication or earlier communications from the examiner should be directed to Saeed S. Mirzadegan whose telephone number is 571-272-0233. The examiner can normally be reached on M-F 8:00-5:00.

Art Unit: 2109

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Patrick Assouad can be reached on 571-272-2210. The fax phone number for the organization where this application or proceeding is assigned is 571-273-8300.

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free). If you would like assistance from a USPTO Customer Service Representative or access to the automated information system, call 800-786-9199 (IN USA OR CANADA) or 571-272-1000.

SSM

